

DEPARTMENT OF FINANCE BILL ANALYSIS

AMENDMENT DATE: May 11, 2011
POSITION: Oppose

BILL NUMBER: SB 583
AUTHOR: J. Vargas

BILL SUMMARY: Personal Income Tax: Voluntary Contributions: ALS

This bill would re-establish the Amyotrophic Lateral Sclerosis (ALS)/Lou Gehrig's Disease Research Fund (Fund) voluntary contribution on the personal income tax return. The Fund could first re-appear on the 2011 personal income tax return filed on after January 1, 2012.

FISCAL SUMMARY

The Franchise Tax Board (FTB) estimated that personal income tax revenues would be reduced by approximately \$20,000 annually beginning in 2012-13 as a result of increased itemized deductions. Because the FTB and the State Controller's Office would be reimbursed for their administrative costs, this bill is not expected to significantly affect the operating costs of the FTB or the State Controller's Office.

COMMENTS

The Amyotrophic Lateral Sclerosis (ALS)/Lou Gehrig's Disease Research Fund first appeared on the 2008 tax return but was removed from the 2010 return for failing to meet its minimum contribution requirement of \$250,000 in the second year.

Finance opposes this bill because it would result in a \$20,000 annual General Fund revenue loss beginning in 2012-13.

Analyst/Principal (0727) P. Ng	Date	Program Budget Manager Mark Hill	Date
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Department Deputy Director	Date
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Governor's Office:	By:	Date:	Position Approved _____
			Position Disapproved _____

BILL ANALYSIS	Form DF-43 (Rev 03/95 Buff)
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J. Vargas

May 11, 2011

SB 583

ANALYSIS

A. Programmatic Analysis

Existing state law permits taxpayers to make contributions of their own funds on their tax returns to fifteen voluntary contribution funds. Taxpayers simply check-off on their tax forms where they would like the money donated. Unlike the federal tax check-off, which directs a portion of the taxpayer's tax to the presidential election fund and does not affect the taxpayer's tax liability or refund amount, the state tax check-off is a donation of the taxpayer's own money that permits an itemized deduction in the following year for personal income tax purposes. Currently available "check-off" funds are listed below. Applicable sunset dates are noted in parenthesis.

1. Alzheimer's Disease/Related Disorders Fund (1/1/2015)
2. Arts Council Fund (1/1/2013)
3. California Breast Cancer Research Fund (1/1/2013)
4. California Cancer Center Research Fund (1/1/2013)
5. California Firefighters' Memorial Fund (1/1/2016)
6. California Fund for Senior Citizens (1/1/2015)
7. California Peace Officer Memorial Foundation Fund (1/1/2016)
8. California Police Activities League Fund (1/1/2013)
9. California Sea Otter Fund (1/1/2012)
10. California Seniors Special Fund (none)a/
11. California Veterans Homes Fund (1/1/2013)
12. Emergency Food for Families Fund (1/1/2014)
13. Rare and Endangered Species Preservation Fund (1/1/2013)
14. Safely Surrendered Baby Fund (1/1/2013)
15. State Children's Trust Fund for the Prevention of Child Abuse (1/1/2013)

a/ The California Seniors Special Fund check-off is permanent and taxpayers are allowed to donate all or part of their senior exemption credit.

Current law allows the Franchise Tax Board (FTB) to add contingent income tax check-offs to the return if there is room to do so, regardless of how many check-offs were removed from the return that year. When adding contingent check-offs to the return, the FTB follows a statutory ordering rule based on the date of enactment for voluntary contribution designations to be added to the tax form. The first check-off added is based on the earliest date of enactment or the lowest chapter number if enacted on the same date.

Generally, the check-offs are required to meet a minimum contribution test of \$250,000 on an annual basis. The intent of the \$250,000 minimum contribution requirement (except for California Fund for Senior Citizens, this amount is adjusted for inflation in subsequent tax years) is to ensure that check-off funds have sufficient public support to warrant continued placement on the tax return. The California Firefighters' Memorial Fund and the California Peace Officer Memorial Fund are required to meet the contribution test only when their respective repeal dates are deleted by another statute. Only the California Seniors Special Fund on the above list is not subject to the minimum contribution requirement.

Chapter 354, Statutes of 2008 (SB 1502) established the check-off for Amyotrophic Lateral Sclerosis (ALS)/Lou Gehrig's Disease Research Fund and added to the 2008 tax return. It last appeared on the 2009 tax return because the FTB estimated that the fund would not meet the required \$250,000 minimum contribution amount for the 2010 calendar year. Accordingly, the fund was repealed

J. Vargas

May 11, 2011

SB 583

effectively January 1, 2010, and was not included on the 2010 tax return. The annual contribution amounts were \$220,041 and \$114,051, in the 2009 and 2010 calendar years respectively.

This bill would re-establish the Amyotrophic Lateral Sclerosis (ALS)/Lou Gehrig's Disease Research Fund (Fund) and add it to the personal income tax (PIT) return as a voluntary contribution fund upon the removal of another voluntary contribution fund. Taxpayers would be able to designate a contribution in excess of the tax liability to the Fund on their PIT return in full dollar amounts of \$1 or more. Upon Legislative appropriation and after reimbursing the Franchise Tax Board and the State Controller's Office for their administrative costs, contributions to the Fund would be transferred to the State Department of Public Health for allocation to The Amyotrophic Lateral Sclerosis Association, an organization exempt from taxation under Section 501(c)(3) of the Internal Revenue Code, to provide research grants to develop and to advance the understanding, techniques, and modalities effective in the prevention, treatment, and cure of Amyotrophic Lateral Sclerosis (ALS). The Amyotrophic Lateral Sclerosis Association would be prohibited from using funds made available by this bill to reimburse its costs for administering grants, to further its own programs, or for any purposes relating to its own operations.

This bill would require the Franchise Tax Board (FTB) to revise the tax return to include a check-off space for the ALS/Lou Gehrig's Disease Research Fund (Fund) beginning with the first taxable year another voluntary contribution fund is removed.

The FTB assumes the Fund would be first placed on the personal income tax (PIT) return for the 2011 taxable year filed on or after January 1, 2012. The following analysis reflects this assumption. Beginning with contributions made in 2012, this bill would require the Fund to meet the minimum contribution test of \$250,000 (adjusted for inflation in subsequent tax years) on an annual basis. Otherwise, the law authorizing designations to this fund would be repealed. This bill specifies that this check-off shall be on the PIT return until January 1, 2016, unless a later enacted statute deletes or extends that sunset date.

This bill would require FTB to do the following by September 1 of the second and each subsequent calendar year that this check-off appears on the tax return:

- Determine the minimum contribution amount, as indexed for inflation, for the next calendar year.
- Notify the State Department of Public Health the minimum contribution amount required for the next calendar year.
- Determine if the amount of contributions estimated to be received during the current calendar year will equal or exceed the minimum contribution amount required for that calendar year.

B. Fiscal Analysis

To the extent contributions would not be made to another charity in the absence of this voluntary contribution, this bill would increase itemized deductions and reduce revenues by a minor amount. The FTB estimates that personal income tax revenues would be reduced by \$20,000 annually as a result of this bill beginning in fiscal year 2012-13. This bill would not significantly impact the operating costs of the FTB or the State Controller's Office.

BILL NUMBER

SB 583

		SO	(Fiscal Impact by Fiscal Year)						
Code/Department	LA	(Dollars in Thousands)							
Agency or Revenue	CO	PROP							Fund
Type	RV	98	FC	2010-2011	FC	2011-2012	FC	2012-2013	Code
1147/Pers Inc Tax	RV	Yes		--		--	U	-\$20	0001
1730/FTB	SO	No		-----	No/Minor Fiscal Impact	-----			8053
0840/Controller	SO	No		-----	No/Minor Fiscal Impact	-----			8053
<u>Fund Code</u>	<u>Title</u>								
0001	General Fund								
8053	ALS/Lou Gehrig's Disease Research Fund								